

The Wisconsin Department of Transportation adopts an order to amend TRANS 102.14(4) and 102.15(6)(intro.), and create TRANS 102.15(16)(note), relating to the time period within which a person moving to Wisconsin may operate a motor vehicle under a driver license from his or her previous state of residence

ORDER ADOPTING RULE**Analysis Prepared by the Wisconsin Department of Transportation**

Statutes interpreted: s. 343.05(4)(b)1., Stats.

Statutory authority: s. 343.02(1), Stats.

Explanation of agency authority: Section 343.02(1), Stats., grants the Department responsibility for administering and enforcing Chapter 343, Stats., and authority to promulgate such rules as the secretary considers necessary for that purpose.

Related statute or rule:

- Section 340.01(37), the definition of "Nonresident" for the motor vehicle code.
- Section 343.01(2)(g), the definition of "Resident" for driver licensing purposes.
- Section 343.06(1)(k), which prohibits issuance of licenses to nonresidents.

Plain language analysis: Current law requires all persons to have driver licenses as a condition of operating a motor vehicle on a highway. Residents must hold a Wisconsin driver license. s. 343.05, Stats. Nonresidents must be at least 16 years old have a license from their home jurisdiction. Nothing in the statutes deals with the situation of a person moving to Wisconsin and establishing residence here. Statutorily, once a person establishes their one permanent home in this state, they cannot operate on the license from their old state of residence. The statutes do not provide any leeway or time period within which a person may operate on their out-of-state license upon moving to this state.

Because this circumstance arises frequently, WisDOT promulgated an administrative rule that provides a 30-day deadline for new residents to obtain a driver license. In practice, police agencies statewide do not arrest persons for driving without a driver license within the first 30 days after they move to this state following the spirit of the regulation.

In the past year, WisDOT has implemented new, more stringent proof of identity requirements as a condition of obtaining a Wisconsin driver license. Rather than simply accepting the out-of-state license as evidence of identity, the Department also requires documentation such as a certified birth certificate or passport.

DMV has found that a person moving to this state often cannot obtain these required documents within 30 days of moving to this state. Accordingly, this rule making proposes to extend the time period within which people should obtain a Wisconsin driver license after moving to this state to 60 days.

Summary of, and preliminary comparison with, existing or proposed federal regulation: There is no federal legislation on this point. Federal CDL law, in fact, permits states to issue CDLs to drivers who are not residents of their states.

Comparison with Rules in Adjacent States:

Michigan: Michigan law does not appear to allow a driver any grace period. Mich. Comp. Laws, ss. 257.301 and .302.

Minnesota: Allows new resident 60 days to obtain Class D or M Minnesota license, 30 days to obtain a Minnesota CDL. s. 171.03, Minn. Stats.

Illinois: Allows new resident 90 days to obtain an Illinois driver license. 625 ILCS 5/6.102(7).

Iowa: License must be obtained immediately upon establishing residency in Iowa. s. 321.174, Iowa Code.

Summary of factual data and analytical methodologies used and how the related findings support the regulatory approach chosen: Not applicable.

Analysis and supporting documentation used to determine effect on small businesses: None.

Effect on small business: This rule would have no effect on small business. The Department's Regulatory Review Coordinator may be contacted by e-mail at andrew.ruiz@dot.state.wi.us, or by calling (414) 438-4585.

Fiscal effect and anticipated costs incurred by private sector: The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education district, sewerage district, or federally-recognized tribes or bands. The Department estimates that there will be no fiscal impact on state or private sector revenues or liabilities.

Copies of Rule. Copies of the rule may be obtained at no cost by writing to Erin Egan, Department of Transportation, Division of Motor Vehicles, Office of Program Operations, Room 351, P. O. Box 7911, Madison, WI 53707-7911. You may also contact Ms. Egan by phone at (608) 266-1449.

TEXT OF RULE

SECTION 1. Trans 102.14(4) is amended to read:

Trans 102.14(4) Persons who establish Wisconsin residency and who are not exempt from Wisconsin licensing requirements under s. 343.05(4), Stats., shall apply for a Wisconsin operator's license ~~within~~ as follows:

(a) Within 30 days of establishing Wisconsin residency if the person holds a commercial driver license from another jurisdiction or Mexico and seeks a Wisconsin commercial driver license.

Note: Commercial drivers are required to transfer their CDL within 30 days of moving between states by federal law. 49 CFR 383.71 (b).

(b) Within 60 days of establishing Wisconsin residency in situations not described in par. (a).

SECTION 2. Trans 102.15(6)(intro.) is amended to read:

Trans 102.15(6)(intro.) TEMPORARY DRIVER RECEIPT. The department may issue a temporary driver receipt for operation of class D or M vehicles to a person who is temporarily unable to meet the identification requirements of sub. (3). The temporary driver receipt shall state the date of issue, shall be clearly marked "NOT VALID FOR IDENTIFICATION," and shall be validated for the operation of a vehicle for a stated period of up to 60 days from the date issued. The person may complete his or her license application within this period by presenting proof of the person's name and date of birth in accordance with sub. (3)(a). For good cause shown, the department may renew

the driving receipt once for an additional period of no more than ~~30~~ 60 days. This subsection does not prohibit a person from proceeding under sub. (3)(b). This subsection applies only to persons who meet all of the following:

SECTION 3. Trans 102.15(6)(note) is created to read:

Trans 102.15(6)(note) Section 343.11(1), Stats., prohibits issuance of temporary driving receipts in situations where a CDL is required. A temporary driving receipt may be used by drivers who are exempt from CDL requirements under s. 343.055, Stats.

(END OF RULE TEXT)

Effective Date. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2)(intro.), Stats.

Signed at Madison, Wisconsin, this ____ day of February, 2006.

FRANK J. BUSALACCHI
Secretary
Wisconsin Department of Transportation